

FISCAL NOTE

SB 397 - HB 721

April 7, 2003

SUMMARY OF BILL:

- Clarifies that a bail bondsman may arrest a defendant "at any place" within or without the state.
- Provides that 180 days from the date a surety fails to satisfy the court that appearance and surrender of a defendant are impossible or not the surety's fault the court may enter a judgment against the defendant and his sureties for the amount of bail and court costs.
- Provides that the premium on a surety contract does not have to be reduced or refunded if the court accepts the surrender of a defendant based on grounds in TCA 40-11-132 which exonerate the bondsman.
- Requires a defendant to make a new bond to the court of criminal appeals or if the defendant is on pre-trial diversion, post plea diversion, community corrections or fined or received a suspended sentence or probation thus removing the discretion of the judge who under current law can order that the original bond was sufficient.
- Relieves the surety of liability on a bond if the principal is in another jurisdiction and an extradition request has been denied. Specifies that a forfeited bond shall not be reinstated without the written agreement of the surety.
- Specifies that a bondsman's capacity (the total amount of bail on which the bondsman may act as surety) shall be determined as ten times the amount of collateral pledged.

ESTIMATED FISCAL IMPACT:

Decrease State Revenues - Exceeds \$100,000

Increase Local Govt. Expenditures* - Exceeds \$100,000

Estimate assumes:

- a decrease in state revenues from bail forfeitures estimated to exceed \$100,000 as the provisions of the bill extend the period of time a surety has before judgment of bail forfeiture is entered thus allowing more time for the bondsman to apprehend the defendant potentially reducing the number of forfeitures.
- local governments will experience an increase in expenditures for the additional costs to court clerks to process new bonds under the provisions of the bill. This increase is estimated to be offset by the fees such clerks receive for processing bonds for a not significant net impact.

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- defendants are already required to pay the bail bond tax on continued bonds pending appeal in accordance with TCA 67-4-804. No additional revenue is anticipated from this tax as a result of requiring new bonds.
- impact on incarceration expenses depends on the number of individuals not able to make a new bond who would be incarcerated under the provisions of the bill who would have been released on their original bond in the absence of the bill. This increase in expenditures is estimated to exceed \$100,000.
- a decrease in state revenues of less than \$100,000 from bonds that would have been forfeited due to the refusal of a detaining authority to extradite a defendant that will not be forfeited under the provisions of the bill relieving the bondsman of liability on such bonds.

**Article II, Section 24 of the Tennessee Constitution provides that: no law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost.*

CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, appearing to read "James A. Davenport". The signature is fluid and cursive, with a large, stylized initial "J".

James A. Davenport, Executive Director